

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|----------------|---|---------------------|
| MICHAEL WEST, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 4:07CV01466 ERW |
| |) | |
| ALAN B. STAHL, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's motion for reconsideration. The motion will be denied.

Petitioner argues that the Court erred when it dismissed the petition because the Court analyzed the petition under the felony habeas rule, Mo. R. Crim. P. 24.035. Petitioner claims this was an error because petitioner is on bond as a result of a misdemeanor charge.

Petitioner is correct that the Court erred in analyzing the petition under Rule 24.035. However, the Court finds that the case is dismissible on alternate grounds and, therefore, will not reopen this case.

On August 24, 2007, the Court ordered petitioner to file an amended petition using the Court-provided form pursuant to Rule 2(d) of the Rules Governing § 2254 Cases and Local Rule 2.06(A). On October 16, 2007, petitioner filed an amended petition that

failed to comply with the Court's Order. Petitioner used the first few pages of the Court-provided form; but on page six, petitioner wrote "See attached "Application for Writ of Habeas Corpus." The fourteen pages petitioner attached to the Court-provided form do not follow the format of the form, which is designed to demonstrate what remedies petitioner pursued in state court before filing the federal habeas petition. Additionally, the attached pages are filled with legal conclusions and extraneous material. These defects make review of the petition difficult.

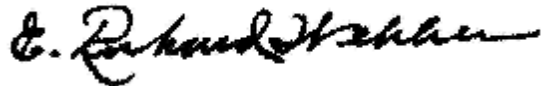
Under Fed. R. Civ. P. 41(b), the Court may dismiss an action if the petitioner fails to comply with an Order of the Court. Petitioner failed to comply with the Court's Order dated August 24, 2007. As a result, the Court will deny the motion for reconsideration with prejudice.

Accordingly,

IT IS HEREBY ORDERED that petitioner's second motion for reconsideration is **DENIED** with prejudice.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

So Ordered this 11th Day of March, 2008.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written above a horizontal line.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE